

## MINUTES

### COMMITTEE OF THE WHOLE

WEDNESDAY SEPTEMBER 14<sup>TH</sup>, 2011

The meeting was called to order by Chairman Bohren at 7:08 p.m.

Aldermen present: Boeldt, Bohren, Carlson, Dekker, Hammen, Hammond, Kath, Kittelson, Rindfleisch, Roesler, Sampson, Van Akkeren, VanderWeele, Versey.

Aldermen excused: Heidemann, and Matichuk

Pledge of Allegiance was recited.

Motion to approve the minutes of the meeting dated August 25<sup>th</sup>, 2011. Rindfleisch/Dekker. All ayes.  
Motion carried.

Chairmen Bohren stated that this meeting was being carried live on Channel 95. Keary Kautzer could be called at the station for information on times the meeting would be replayed – 459-6663.

### PUBLIC FORUM

Patrick Gillette, 915 North Avenue, Sheboygan, Wisconsin 53081  
Pat Aaholm, 2602A Camelot Blvd., Sheboygan, Wisconsin 53081  
Dolce Johnson, 1306 North 3<sup>rd</sup> Street, Sheboygan, Wisconsin 53081  
Richard Suscha, 15 North Point Drive, Sheboygan, Wisconsin 53081

The Chairman then gave opening comments regarding last Tuesday's Common Council meeting and the hiring of attorneys for the legal process.

Discussion then took place with Ald. Hammond asking Att. Biskupic to speak. Ald. Bohren welcoming and thanking him for coming to the meeting. Attorney Biskupic stated his position is totally under Wisconsin Statute 17.16 and doesn't necessarily mean we have to go forward. We don't know all the facts right now – we need to look into it. The power is solely in the Statute.

Ald. Sampson asked why pro bono? Biskupic stated that they were contacted and asked if they would be interested and they said yes they would be. The partners of the firm agreed to pro bono and are willing to do it.

Ald. Roesler asked about the time frame. Biskupic stated they will give prompt and immediate attention to the matter. Roesler asked about the costs for witness fees, etc. Biskupic stated there may be some costs here – due process voluntarily or otherwise remains to be seen. Roesler asked about investigative costs – Biskupic stated those costs are yet to be determined. It would depend on the results of the investigation and how cooperative people are, etc. The Wisconsin State Statute sets forth the process. Biskupic stated his role would be to investigate the facts.

Ald. Hammond asked if he could outline the process. Atty. Biskupic said yes – get the facts through the statute and then we have 10 days to consider the information – all allegations until we decide what to do. The authority to investigate is in Wisconsin State Statute 17.16.

Ald. VanAkkeren asked if there would be no cost to us until after the initial investigation. Atty. Biskupic stated there would be no cost until we decide to go forward. Discussion continued with Van Akkeren stating nothing substantial – we can decide once the facts are in on what to do. Atty. Biskupic stated it is gathering and presenting the facts and then deciding whether to go forward.

Ald. Hammond stated that everyone gets immunity with Atty. Biskupic stating immunity means under 17.12 what witnesses say cannot be used against them in some other way.

Ald. Roesler stated that he had a constituent ask why we did not look into having a local attorney conduct this process.

Motion made and seconded by Versey/Dekker to send Document 11-61 to Council with a positive recommendation. On a roll call vote 9 ayes – 5 no. Motion carries.

Ald. Hammond opens floor to Atty. Voelkner – thanks him for coming and asks what is our obligation statutorily? Att. Voelkner states his role is to provide all parties due process of the law. This body needs to determine with respect to Atty. Biskupic's investigation whether to go forward.

Ald. Hammen asks if we go forward who would lead the hearing? Atty. Voelkner states the President of the Council or anyone the body would choose is appropriate. We cannot speculate on how long the investigation will take – we can't really know. It depends on the evidence and what is discovered.

Ald. VanAkkeren asked about Atty. Voelkner's role and his costs. Atty. Voelkner stated his role is not to investigate, but to insure due process of the law. Atty. Biskupic would be responsible for the investigation. Atty. Voelkner stated his role is liaison between council and attorneys – nothing adversarial – my role is to preserve the process of the law – no opinions. I would advise council on how to proceed. Because it is not a real involved process during the investigation, costs would be minimal. Ald. Bohren stated that the amount agreed upon is \$185 dollars an hour.

Ald. Rindfleisch stated that Atty. Voelkner is part of the local bar association and the role is not new to him. Atty. Voelkner stated no, I have presided over many quasi-judicial hearings for the city for approx. 9 years. He has advised this body on how to proceed on many matters for the city.

Ald. Hammond asked if someone can recuse themselves and if we can bring in someone from the outside? Atty. Voelkner stated that is a possibility. The statute does allow for variance. Atty. Biskupic would provide the prosecution – my role is to advise the council.

Ald. Van Akkeren urged the committee to vote on what is in front of us at least to go forward. If there is nothing we can end the process. We have an obligation to go forward and do it the correct way.

Ald. Roesler stated his main concern has always been the cost of things with regard to our financial obligation to the citizens; however he is pleased with what he hears from these attorneys.

Motion made and seconded on Council Document #11-60 by Versey/Dekker to send to Council with a positive recommendation. Roll call vote taken with 11 ayes – 3 no. Motion carries.

President Rindfleisch was excused from the meeting at this time. 7:54 p.m.

Council Document 10-36 by Milt Storm – Motion to file Hammond/Dekker. All Ayes. Motion carried.

Council Document 11-18 by Mike and Diane Warner – Motion to file Hammond/Dekker. All Ayes. Motion carried.

Council Document 11-51 by Richard Suscha – Motion to file Hammond/Dekker. All Ayes. Motion carried.

#### PUBLIC FORUM – PART II

Dolyce Johnson 1306 North 3<sup>rd</sup> Street – Sheboygan, Wisconsin 53081

Richard Suscha 15 North Point Drive – Sheboygan, Wisconsin 53081

Eldon Burg 406 Clement Ave. – Sheboygan, Wisconsin 53081

Ald. Bohren and Hammond thanked everyone for the work done on the Government Structure Committee.

Motion made and seconded on Council Document # 11-64 by Hammond/Hammen. All Ayes. Motion carried.

At this time the floor was opened up to Alderman Ron Lade from Plymouth (Hammond/Versey – all ayes – motion carries) to give his presentation on how the City of Plymouth went about their search for a City Administrator. They hired a consultant for \$15,000 – Voorhees – to lead the process of hiring a qualified person. They are very happy with the result. They found and hired a qualified administrator and it makes everyone's job easier. Lade urged the council to seriously consider this type of government. Their administrator saved them 4 million dollars in 1 year.

Discussion went on to the position of Mayor – fulltime versus part-time. Salary for the mayor needs to be determined for elected officials 13 months prior to the April election. Discussion continued on the charter ord. and how it would need to be changed if we went to a part-time mayor. Could be done either binding or advisory. After discussion, Attorney McLean stated depending on statutory criteria, it is possible to be on the Feb. ballot.

Ald. Hammond stated that the mayor issue should be a referendum decision that citizens need to make. Ald. VanAkkeren agreed – should be done thru the election process. With regard to salary, must again look at the Charter Ord.

Ald. Boeldt asked about scheduling the hours of the mayor. Ald. Kath states she is in favor of a city administrator and Full time Mayor. Ald. Bohren stated we could make the mayor a part-time schedule X employee with a salary of 20-25,000 dollars – nice job for a retired person. He favors a city admin./part-time mayor. That would give us 70-80,000 dollars towards a city admin. Ald. Carlson like the city admin/fulltime mayor to get a qualified person for the mayor's job. Ald. Roesler stated he did not think the mayor's job could be a schedule X employee – Attorney McLean concurred – it could not be. Ald. Hammond stated we should not gear this towards a specific group of people. The taxpayers keep the mayor accountable. Ald. Versey stated we should set salary and job description. Ald. Bohren asked if we could make it a 2-yr term? Attorney McLean stated we could do anything we want as long as we change

the Charter Ord. Ald. Bohren asked what would be the process for council to decide – would a resolution have to be brought forth? Atty. McLean said a few aldermen could sponsor a charter ord. change. It would be necessary to establish what you want to do first. Ald Carlson asked about a voluntary referendum. Atty. McLean said you could put referendum on Feb. election – something to the effect “do you favor a part-time mayor”. Ald. Van Akkeren urges council to consider compensation package of a fulltime mayor. We need to pay accordingly. He would caution against lowering the wage too much. Ald. Carlson stated he would like to keep the integrity of the mayor’s office – cutting to a part-time mayor lessens the integrity of the office. Ald. Bohren stated that a part-time mayor would be primarily ceremonial – we would still have problems with the salary of the mayor and the city administrator. Ald. Sampson asked if this would not go to referendum, could we just keep the full time mayor and decrease the pay – is it possible to be done this way? Attorney McLean stated that you are asking a lot if you reduce the pay. Ald. Hammond stated that we should not look at this position as ceremonial. The mayor’s job is important. This job needs to focus on the direction of the city with regard to economic development, etc.

BREAK WAS TAKEN AT 8:53 P.M.  
WE RECONVENED AT 9:01 P.M.

Discussion continued on Council Document # 11-63 – Ald. Versey has a problem with who the Mayor reports to on the job description. Ald. Hammond clarified that the Mayor needs to focus on the Budget. As far reporting to the strategic fiscal planning committee, the Mayor makes up that committee. Ald. Bohren stated that he thought it was very important for department heads to know who they report to at the end of the day. Ald. Hammond stated that thru the document department heads would know that they report to the city administrator and the mayor has input – that is all. Ald. Kittelson asked if it was just a title change for the Deputy Director of Finance to Treasurer – nothing else changes. Hammond replied yes – that is all. More discussion continued regarding the positions of Finance Director, Treasurer and City Administrator and who they report to. Ald. Kath stated that we will still have this person for 4 more years. Ald. Hammond stated yes, but we will have a city administrator. Ald. Kath stated that it makes no sense to me. Ald. Hammond stated that the person filling the position has all the qualifications. Ald. Van Akkeren stated that adding this position to our structure – making it cost effective now – is the only way to do it at this time. Ald. Bohren stated that a nationwide search to get someone with experience makes sense. We need to do this. The person who would be taking the position has only 1 year experience in city government. Ald. Versey stated the length of time of appointment is a concern with him. Ald. Hammond stated it was intentionally written that way because of the 4 year appointment. Point well taken. Ald. Carlson asked what would be cause to remove someone? Atty. McLean stated misconduct/malfeasance in office by a  $\frac{3}{4}$  vote. Person could be removed if they were ineffective. Ald. Hammond stated there would be no sense to create a new position. There is something to be said for real world experience. Look at what we are getting. Ald. Kath stated that Ron Lade from Plymouth said they spend \$15,000 and save 4 million dollars – at will employee. Ald. Boeldt agreed with Ald. Carlson we can remove him for cause if he is not doing his job. Ald. Bohren agreed with Ald. Kath that if a person is not performing his/her job, it is much easier to get rid of an at will employee than a contract employee. Ald. Van Akkeren stated to make it cost effective pass the Ordinance as we have it. Attorney McLean stated that it is a 5-yr term not a contract. Ald. Van Akkeren said let’s get the position on the TO. Ald. Hammond stated again let’s not throw out the baby with the bath water. He is already doing the job. This is a good solution.

Ald. Versey called the question. Motion and second to pass council document #11-63 Hammond/Roesler. Under discussion.

Under further discussion the document was amended to read that the City Administrator would report to the Common Council with input from the Mayor. Motion made Versey/Boeldt to pass the document as amended. Roll call vote taken 12 ayes – 1 no. Motion carried

Motion made and seconded on Council Document #11-62 Hammond/Versey. Under discussion Hammond stated the position would go into effect October 1, 2011 with no salary change this year. Roll call vote taken - 12 ayes – 1 no. Motion carried.

Attorney McLean stated that he had checked the statute and that in order for the citizens to request a referendum election on a charter ordinance, they would have to submit a petition with signatures amounting to 7% or more of the number of votes cast at the last Governor's election.

Motion was made and seconded to adjourn. Boeldt/Carlson. All Ayes. Motion carried.  
We adjourned at 10:02 p.m.

Respectfully Submitted,

Aldersperson Jean Kittelson  
3<sup>rd</sup> District – City of Sheboygan